



Sen. Kimberly A. Lightford

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1 AMENDMENT TO SENATE BILL 630

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 630 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Toll Highway Act is amended by adding  
5 Sections 16.5 and 16.10 as follows:

6 (605 ILCS 10/16.5 new)

7 Sec. 16.5. Prequalification of minority-owned and  
8 female-owned contractors. The Authority shall, within 30 days  
9 after the effective date of this amendatory Act of the 99th  
10 General Assembly, establish a committee to review rules for  
11 prequalification of contractors under the Illinois Procurement  
12 Code. The purpose of the review is to determine whether the  
13 rules for prequalification operate as a barrier to  
14 minority-owned and female-owned contractors becoming  
15 prequalified to bid on or make proposals for Authority  
16 contracts. The committee shall, in addition to Authority staff,

1 be comprised of membership representing the construction  
2 industry and minority-owned and female-owned contractors. The  
3 committee shall complete its work and make recommendations for  
4 any changes to the rules for prequalification to the Board of  
5 Directors of the Authority within 180 days after the effective  
6 date of this amendatory Act of the 99th General Assembly.

7 (605 ILCS 10/16.10 new)

8 Sec. 16.10. Target market program.

9 (a) In order to remedy particular incidents and patterns of  
10 egregious race or gender discrimination, the chief procurement  
11 officer, in consultation with the Authority, shall have the  
12 power to implement a target market program incorporating the  
13 following terms:

14 (1) Each fiscal year, the Authority shall review any  
15 and all evidence of discrimination related to construction  
16 projects. Evidence of discrimination may include, but is  
17 not limited to:

18 (A) the determination of the Authority's  
19 utilization of minority-owned and female-owned firms  
20 in its prime contracts and associated subcontracts;

21 (B) the availability of minority-owned and  
22 female-owned firms in the Authority's geographic  
23 market areas and specific construction industry  
24 markets;

25 (C) any disparities between the utilization of

1           minority-owned and female-owned firms in the  
2           Authority's markets and the utilization of those firms  
3           in the Authority's prime contracts and subcontracts in  
4           those markets;

5           (D) any disparities between the utilization of  
6           minority-owned and female-owned firms in the overall  
7           construction markets in which the Authority purchases  
8           and the utilization of those firms in the overall  
9           construction economy in which the Authority operates;

10           (E) evidence of discrimination in the rates at  
11           which minority-owned and female-owned firms in the  
12           Authority's markets form businesses compared to  
13           similar non-minority-owned and non-female-owned firms  
14           in the Authority's markets and in the dollars earned by  
15           those businesses; and

16           (F) quantitative and qualitative anecdotal  
17           evidence of discrimination.

18           If, after reviewing this evidence, the Authority finds, and  
19           the chief procurement officer concurs, that the Authority has a  
20           strong basis in evidence that it has a compelling interest in  
21           remedying the identified discrimination against a specific  
22           group, race, or gender, and that the only remedy for the  
23           discrimination is a narrowly tailored target market, the chief  
24           procurement officer, in consultation with the Authority, has  
25           the power to establish and implement a target market program  
26           tailored to address the specific findings of egregious

1 discrimination made by the Authority, after a public hearing at  
2 which minority groups, female groups, general contractor  
3 groups, community organizations, and other interested parties  
4 have the opportunity to provide comments.

5 (2) In January of each year, the Authority and the  
6 chief procurement officer shall report jointly to the  
7 General Assembly the results of the evidentiary inquiries  
8 or studies that establish the Authority's compelling  
9 interest in remedying egregious discrimination based upon  
10 strong evidence of the need for a narrowly tailored target  
11 market to remedy the discrimination and public hearings  
12 under this Section, and shall report the actions to be  
13 taken to address the findings, including the establishment  
14 and implementation of any target market initiatives.

15 (3) The chief procurement officer shall work with the  
16 officers and divisions of the Authority to determine the  
17 appropriate designation of contracts as target market  
18 contracts. The chief procurement officer, in consultation  
19 with the Authority, shall determine appropriate contract  
20 formation and bidding procedures for target market  
21 contracts, including, but not limited to, the dividing of  
22 procurements into contract award units in order to  
23 facilitate offers or bids from minority-owned businesses  
24 and female-owned businesses and the removal of bid bond  
25 requirements for minority-owned businesses and  
26 female-owned businesses. Minority-owned businesses and

1 female-owned businesses shall remain eligible to seek the  
2 procurement award of contracts that have not been  
3 designated as target market contracts.

4 (4) The chief procurement officer may make  
5 participation in the target market program dependent upon  
6 submission to stricter compliance audits than are  
7 generally applicable. No contract shall be eligible for  
8 inclusion in the target market program unless the Authority  
9 determines that there are at least 3 minority-owned  
10 businesses or female-owned businesses interested in  
11 participating in that type of contract. The Authority, with  
12 the concurrence of the chief procurement officer, may  
13 develop guidelines to regulate the level of participation  
14 of individual minority-owned businesses and female-owned  
15 businesses in the target market program in order to prevent  
16 the domination of the target market program by a small  
17 number of those entities. The Authority may require  
18 minority-owned businesses and female-owned businesses to  
19 participate in training programs offered by the Authority  
20 or other State agencies as a condition precedent to  
21 participation in the target market program.

22 (5) Participation in the target market program shall be  
23 limited to minority-owned businesses and female-owned  
24 businesses and joint ventures consisting exclusively of  
25 minority-owned businesses, female-owned businesses, or  
26 both, that are certified as disadvantaged businesses under

1       the Business Enterprise for Minorities, Females, and  
2       Persons with Disabilities Act. A firm awarded a target  
3       market contract may subcontract up to 50% of the dollar  
4       value of the target market contract to subcontractors who  
5       are not minority-owned businesses or female-owned  
6       businesses.

7       (6) The Authority may include in the target market  
8       program contracts that are funded by the federal government  
9       to the extent allowed by federal law and may vary the  
10      standards of eligibility of the target market program to  
11      the extent necessary to comply with federal funding  
12      requirements.

13      (7) If no satisfactory bid or response is received with  
14      respect to a contract that has been designated as part of  
15      the target market program, the chief procurement officer,  
16      in consultation with the Authority, may delete that  
17      contract from the target market program. The chief  
18      procurement officer, in consultation with the Authority,  
19      may designate and set aside for the target market program  
20      additional contracts corresponding in approximate value to  
21      a contract that was deleted from the target market program,  
22      in keeping with the narrowly tailored process used for  
23      selecting contracts suitable for the program and to the  
24      extent feasible.

25      (b) The chief procurement officer, in consultation with the  
26      Authority, shall adopt rules as he or she deems necessary to

1 administer the target market program.

2 (c) If any part, sentence, or clause of this Section is for  
3 any reason held invalid or to be unconstitutional, that  
4 decision shall not affect the validity of the remaining  
5 portions of this Section. "